

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SCHAWN JAMES CRUZE,

Plaintiff,

V.

BERNIE WARNER, et al.,

## Defendants.

CASE NO. C13-5220 BHS-JRC

ORDER DENYING PLAINTIFF'S  
MOTION TO APPOINT COUNSEL  
WITHOUT PREJUDICE AND  
DIRECTING PLAINTIFF TO SHOW  
CAUSE

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creature. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

Plaintiff asks the Court to appoint counsel to represent him (ECF No. 30). The motion is denied without prejudice because plaintiff fails to show the Court that his circumstances warrant appointment of counsel.

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), the Cou

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1 may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th  
2 Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d  
3 1089 (9th Cir. 1980). A finding of exceptional circumstances requires the Court to evaluate both  
4 the likelihood of success on the merits and the ability of plaintiff to articulate his claims pro se in  
5 light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

6 Plaintiff alleges that he was sexually abused by certain Department of Corrections  
7 employees (ECF No. 5). Plaintiff alleges that he cannot get information from investigation  
8 reports that the Department of Corrections conducted regarding his allegations of employee  
9 misconduct (ECF No. 30). Plaintiff does not inform the Court what steps he has taken in his  
10 attempts to obtain these reports or what response he has received from the department. Plaintiff  
11 may have a viable claim, but he has not shown that the legal issues are so complex that they  
12 warrant appointment of counsel at this time.

13 Plaintiff's motion is denied without prejudice.

14 Further, the Court orders plaintiff to show cause and inform the Court what steps he has  
15 taken to obtain the information he alleges the Department of Corrections has withheld from him.  
16 Plaintiff's response to this order will be due on or before August 16, 2013.

17 Dated this 11<sup>th</sup> day of July, 2013.

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21 J. Richard Creatura  
22 United States Magistrate Judge  
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